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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,950	03/24/2000	David G Stork	074451.P0118	1960

7590

05/19/2004

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EXAMINER

BOOKER, KELVIN E

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 05/19/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary

Application No.

09/534,950

Applicant(s)

STORK, DAVID G

Examiner

Kelvin E Booker

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on March 5, 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1, 12 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-11, 13-18 and 21-25 is/are allowed.
- 6) ☒ Claim(s) 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Office Action</u> . |

DETAILED ACTION

Response to Amendment

1. In Amendment "D", filed March 5, 2004 (see paper no. 17), **claims 5, 10, 15, 16, 17, 19 and 25** have been amended to correct typographical and/or grammatical errors. **Claims 2-11, 13-19, 21-25** are presented for further consideration.

Response to Arguments

2. Applicant's arguments filed March 5, 2004 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 101

3. *35 U.S.C. 101 reads as follows:*

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. **Claim 19** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 19 is directed at a computer data signal embodied in a carrier wave. Abstract ideas (see *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759) or the mere manipulation of abstract ideas (see *Schrader*, 22 F.3d at 292-93, 30 USPQ2d at 1457-58) are not patentable.

As disclosed, independent claim 19 focuses on nonfunctional descriptive material, which is inclusive of the mere arrangement of data without engaging functionality when employed as a computer component. Claiming nonfunctional descriptive material merely recorded or residing on a computer-readable medium is deemed non-statutory because it fails to present functionality to facilitate practical application requirements (see MPEP 2106(IV)(B)(1)).

5. In the remarks, Applicants argue in substance that “...one of ordinary skill in the art would consider the user interaction code segment, the response evaluation code segment, and the training code segment are a part of computer program code segments that are executable by a computer”.

6. In response to the Applicant’s argument, the Examiner agrees that the disclosed claim 19 cites program material that can be implemented within a computing environment. However, as disclosed, the mere admission of a data signal embodied in a carrier wave that contain program material which is capable of performing functions, without actually engaging the perspective functionality, is deemed nonfunctional descriptive material (see above rejection, and prior Office Action). As per U.S. Patent Nos. 6,697,876 and 6,697,706, each application discloses claims that focus on the embodiment of data signals in carrier waves wherein the claimed code is functionally operable within the cited computing environment.

Allowable Subject Matter

7. *Claims 2-11,13-18 and 21-25 are allowed.*

8. *The following is a statement of reasons for the indication of allowable subject matter:*

the cited prior art fails to explicitly teach of a means and method for training a system, whereby a process is employed to train a machine learning system by presenting non-expert internet users (e.g., netizens) with logic facilitated multiple choice queries, from which the system uses responses entered by the netizens to continually update and refine the knowledge generated queries, and subsequently continuing the build of a further refined and larger knowledge base.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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10. An inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin Booker whose telephone number is (703) 308-4088. The examiner can normally be reached on Monday-Friday from 7:00 AM-5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight, can be reached on (703) 308-3179. The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

An inquiry of a general nature or relating to the status of this application proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Anthony Knight
Supervisory Patent Examiner
Group 3600

K.E.B.

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May 11, 2004